

MRS. INA MAE SHIPMAN

OCTOBER 25, 1943.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1769]

The Committee on Claims, to whom was referred the bill (H. R. 1769) for the relief of Mrs. Ina Mae Shipman, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 632, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 632, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1769) for the relief of Mrs. Ina Mae Shipman, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, lines 6 and 7, strike out the figures "\$18,766.40" and insert in lieu thereof the figures "\$11,039".

Page 1, line 9, strike out the words "property damage,".

The purpose of the proposed legislation is to pay to Mrs. Ina Mae Shipman, of Osceola, St. Clair County, Mo., the sum of \$11,039, in full settlement of all claims against the United States for the death of her husband, Bernal Shipman, and personal injuries, medical, and hospital expenses sustained by her as a result of a collision between the automobile in which they were riding and a United States Army truck on United States Highway No. 54, near Collins, Mo., on November 30, 1941.

STATEMENT OF FACTS

On November 30, 1941, at about 6 a. m., an Army truck on official business, one of a convoy of Government vehicles, operated by an enlisted man, was proceeding downgrade around a right curve in a westerly direction on United States Highway No. 54 near Collins, Mo., at a speed of about 30 miles per hour, and approaching a bridge. It was dark, rain was falling, and visibility was poor. The windshield of the truck was spattered with dirt and water from passing cars and the rain. The road had a bituminous surface, and was wet and slippery. At the same time a 1931 Ford coupe, owned and operated by Bernal Shipman, of Osceola, Mo., with his wife, Mrs. Ina Mae Shipman, as passenger, was proceeding in the opposite direction at a speed of about 25 or 30 miles per hour and

crossing the above-mentioned bridge. It appears that when the Army driver observed the lights of the approaching Ford coupe, he applied his brakes; that the rear end of the truck thereupon skidded to the left into the path of the civilian vehicle, and the two vehicles collided. The Ford coupe was crushed against the end of the concrete rail of the bridge.

As a result of the accident, the Shipman car was demolished, Mr. Shipman sustained injuries from which he died 3 days later, and Mrs. Shipman suffered serious injuries.

Mr. Shipman was 32 years of age at the time of his death and was employed by the Western Auto Store, at Osceola, Mo., earning a salary and commissions totaling \$100 per month, and he is found to have contributed an average of \$50 per month to the support of Mrs. Shipman. The couple had no children. Mrs. Shipman was 29 years of age at the time of the accident.

Mrs. Shipman sustained serious injuries which are detailed in the report of the War Department and other evidence appended hereto, and her physician, Dr. E. G. Claiborn, concludes his report of April 5, 1943, with the following statement:

"From my examination on this date made, it is my professional opinion that she is and always will be permanently disabled to the extent of 65 percent total disability; that she is 65 percent totally disabled, due to ankylosis of both ankles rendering her ankles immobile, and decided atrophy of right leg, and partial ankylosis of left knee."

The record shows that Mrs. Shipman has incurred hospital and medical expenses totaling \$766.40, as a result of the accident, and that she also paid out \$272.60 for expenses incident to the burial of her husband, making a total of \$1,039.

The War Department recognizes the Government's liability, making a favorable report in the matter, saying, in part:

"Since there does not appear to have been any fault or negligence on the part of Mrs. Shipman or her husband, either in causing or contributing to the accident which resulted through an instrumentality of the Government for which the Government may properly assume responsibility, it is the view of the War Department that she is equitably entitled to compensation for the death of her husband and the expenses arising out of his injuries and death, and also for the injuries she personally sustained and the resultant medical and hospital expenses. However, the Department believes that an award of \$5,000 for the death of Mr. Shipman and \$6,039 for the personal injuries received by Mrs. Shipman and the medical expenses incurred by her (\$5,000 for personal injuries, \$766.40 for medical and hospital expenses, and \$272.60 for funeral expenses of Mr. Shipman) would be fair and reasonable compensation."

Your committee concur in the views and recommendations of the War Department, and, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department, together with other pertinent evidence, all of which is made a part of this report.

WAR DEPARTMENT,
Washington, D. C., May 7, 1943.

HON. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

DEAR MR. McGEHEE: The War Department is opposed to the enactment of H. R. 1769, Seventy-eighth Congress, in its present form. This bill would authorize and direct the Secretary of the Treasury to pay to Mrs. Ina Mae Shipman, of Osceola, St. Clair County, Mo., the sum of \$18,766.40 in full settlement of all claims against the United States for the death of her husband, Bernal Shipman, and property damage, personal injuries, and medical and hospital expenses sustained by her as a result of a collision between the automobile in which they were riding and a United States Army truck on United States Highway No. 54, near Collins, Mo., on November 30, 1941. However, the Department would interpose no objection to the enactment of the bill if amended to provide for a total award of \$11,039 to Mrs. Shipman for the death of her husband and medical, hospital, and funeral expenses incident to his injuries and death; and for the personal injuries she herself sustained and the medical and hospital expenses incident thereto.

On November 30, 1941, at about 6 a. m., an Army truck on official business, one of a convoy of Government vehicles, operated by an enlisted man, was proceeding downgrade around a right curve in a westerly direction on United States Highway No. 54, near Collins, Mo., at a speed of about 30 miles per hour, and approaching a bridge. It was dark, rain was falling, and visibility was poor. The windshield of the truck was spattered with dirt and water from passing cars and the rain. The road had a bituminous surface, and was wet and slippery. At the same time a 1931 Ford coupe owned and operated by Bernal Rodney Shipman, of Osceola, Mo., with his wife, Ina Mae Shipman, as passenger, was proceeding in the opposite direction at a speed of about 25 or 30 miles per hour and crossing the above-mentioned bridge. It appears that when the Army driver observed the lights of the approaching Ford coupe, he applied his brakes; that the rear end of the truck thereupon skidded to the left into the path of the civilian vehicle, and the two vehicles collided. The Ford coupe was crushed against the end of the concrete rail of the bridge.

As a result of the accident, the Shipman car was demolished, Mr. Shipman sustained injuries from which he died 3 days later, and Mrs. Shipman suffered serious injuries.

Dr. E. R. King, of Nevada, Mo., stated on April 22, 1942:

"My examination of the condition of Ina Mae Shipman revealed that she sustained and was suffering with the following injuries, to wit: Fracture of left femur, fracture of lower ends of right tibia and fibula with dislocation of right ankle joint, fracture of left fifth metacarpal, fracture of superior maxilla, laceration of face and lips, multiple contusions and abrasions, cerebral concussion with a semiconscious condition for about 10 days.

"When she was carried into the hospital she was unconscious and remained in a semiconscious condition for about 10 days. I repaired and treated the cuts and lacerations on and about her body and face and applied the treatments for reduction of her fractures. X-ray pictures were frequently made and examined by me and associates during her confinement in the hospital. She was confined in the hospital, in a cast, until the 8th day of February 1942, when she was removed from the hospital and carried to a private home located in Camden County, Mo., where I am informed she is now under the care and attention of Dr. E. G. Claiborn, of Camdenton.

"It is difficult and speculative as to the future physical condition of Ina Mae Shipman as a result of the injuries which she received in the automobile collision, but it will take considerable time for her to recover so that she may resume her usual duties and normal action. And it is possible that she may always suffer a degree of permanent partial disability, as a result of the injuries hereinbefore described."

In an affidavit dated April 5, 1943, Dr. E. G. Claiborn, of Camdenton, Mo., stated:

"I treated and administered my professional services to her injuries during the period beginning on the said 10th day of February 1942, to the 15th day of June 1942. The history of her case shows that her chief injuries were concussion, fracture of jaw, broken nose, numerous cuts about the face, multiple fracture of right ankle, fractures of left femur—upper third, also pressure ulcer on left heel, which was an open sore during a period of about 3 months, and her left hand broken.

"When I first visited the home wherein she was confined here in Camden County on the 10th day of February 1942, after her discharge from the Nevada Hospital, she was in a cast. The cast was removed on the 14th day of March 1942. I continued treatment of the fractures and pressure sore until the 15th day of June 1942 when she was removed from this county to the home of her parents in Polk County, Mo.

"And on this 5th day of April 1943, at the request of Lt. J. T. Mosselman, of the United States Army, the said Ina Mae Shipman's said injuries were again carefully examined by me, and it is my professional opinion that she could not resume her normal activities from and during all of the period beginning November 30, 1941, the date of said collision, up to and including this 5th day of April 1943, and I cannot estimate the future date when, if ever, she can resume her normal activities. She cannot stand or walk without assistance at this date, and she has been totally disabled and her injuries aforesaid have prevented her from being physically able to accept and perform work, gainful occupation, or employment since the aforesaid date of November 30, 1941, to and including this date of April 5, 1943.

"From my examination on this date made, it is my professional opinion that she is and always will be permanently disabled to the extent of 65-percent total

disability; that she is 65-percent totally disabled, due to ankylosis of both ankles rendering her ankles immobile, and decided atrophy of right leg, and partial ankylosis of left knee."

In an affidavit dated March 16, 1942, Mrs. Shipman stated:

"I remained in the hospital, in a steel cast, 70 days at Nevada, Mo., until the 8th day of February 1942, when the brother of my deceased husband, Audrey Shipman, took me to his home in Camden County, where I was placed in a plaster cast for a period of 5 weeks under the care of Dr. E. G. Claiborn. I have been since the date of the collision, and am now, confined in my bed at all times. I cannot walk or move about, and it is necessary for some person to wait upon and care for me.

"I have paid the following bills for medicines, hospital, and professional services incurred as a result of the injuries received from the collision, to wit:

Dr. E. R. King-----	\$175. 00
Nevada Hospital, including cost of X-rays-----	541. 40
Laundry and medicines while in hospital-----	25. 00
Dr. E. G. Claiborn for professional services and for medicines-----	25. 00
Total-----	766. 40

"Said charges were reasonable and necessary, and the receipts of payment of said bills are hereto attached. I will be compelled in the future to expend additional sums of money for professional services, medicines, and personal services; and also pay for board, room, and nursing from the day I left the hospital until I am well and fully recovered. And the doctor says I may always suffer a permanent partial disability."

In an affidavit dated April 5, 1943, Mrs. Shipman stated:

"Ina Mae Shipman, of lawful age, being duly sworn upon her oath says, that at the time she received the injuries resulting from a motor-vehicle collision with an Army truck which occurred on the 30th day of November 1941, she was not gainfully employed and has not been employed since said date for the reason that she is physically unable to perform any work due to the fact that she is permanently crippled and injured.

"That the following items of expense, and none other, were incurred and paid by her, to wit: To Nevada Hospital of Nevada, Mo., \$401.90; to Davis X-ray and Clinical Laboratories, \$164.50; to Dr. E. R. King, \$175; and to Dr. E. G. Claiborn, \$25; a total of \$766.40 for hospital, medical, and professional expenses incurred and paid by me.

"That no additional medical or hospital expenses incurred or paid by me other than the amounts above set out, all of which has been fully paid by me and none remains unpaid, and none of the above items of expense were covered by insurance of any kind whatsoever.

"Affiant further states that her relatives have paid for furnished and contributed for her care, attention, board, and room without any charges therefor since the date of her release from the care and professional attention of doctors and hospital.

"That at the time of the aforesaid collision and injuries she was not gainfully employed and therefore no loss of wages were sustained by her as a result of her injuries."

Claims were filed with the War Department by Mrs. Shipman in the amounts of \$10,000 for the death of her husband (which sum presumably includes funeral expenses in the amount of \$272.60); \$8,766.40 for personal injury and medical and hospital expenses incident thereto (apparently, including also the sums of \$12.50, cost of medical and hospital treatment of Mr. Shipman, and \$20, cost of X-rays incident to his injuries; and \$250 for property damage. The following receipted bills were submitted:

Nevada Hospital:	
For treatment of Mr. Shipman-----	\$12. 50
For treatment of Mrs. Shipman-----	389. 40
Davis X-ray and Clinical Laboratories:	
Mrs. Shipman-----	144. 50
Mr. Shipman-----	20. 00
E. G. Claiborn, M. D.-----	25. 00
E. R. King, M. D.-----	175. 00
Total-----	766. 40
Bankson-Woolery (expenses incident to burial of Bernal Rodney Shipman)-----	272. 60

Upon review in the War Department the claim for property damage was approved in the amount of \$50 (estimated value of car before the accident, \$62.50, less salvage value, \$12.50) for settlement under the provisions of the Military Appropriation Act, 1943, approved July 2, 1942 (56 Stat. 611), covering damage to or loss of private property incident to the training, practice, operation, or maintenance of the Army; it being the view of the War Department that the Government truck involved was being operated in as careful and prudent a manner as the other vehicles in the convoy and at the same speed, and that the proximate cause of the accident was the slippery condition of the road which caused the Government vehicle to skid out of control and strike the civilian car. The claim was paid, in the amount of \$50, on December 10, 1942. The claim for the death of Mr. Shipman and the injuries of Mrs. Shipman and the medical and hospital expenses incident thereto was necessarily disapproved since there is no law or appropriation available to the War Department for the settlement of claims of this nature.

From the affidavit executed by Mrs. Shipman on March 16, 1942, extract from which is quoted above, it appears that Mr. Shipman was 32 years of age at the time of his death; that he was employed by the Western Auto Store, at Osceola, Mo., earning a salary and commissions totaling \$100 per month; that his average monthly contribution to the support of Mrs. Shipman was \$50; that the couple had no children; and that Mrs. Shipman was 29 years of age at the time of the accident.

It seems clear from the medical evidence hereinbefore quoted that Mrs. Shipman has sustained serious injuries, resulting in permanent disability (estimated by Dr. E. G. Claiborn at 65 percent "total disability"). The evidence of record also discloses that for the treatment of her injuries and those received by Mr. Shipman she has paid medical and hospital bills in the total amount of \$766.40, and the funeral bill for Mr. Shipman in the amount of \$272.60. Since there does not appear to have been any fault or negligence on the part of Mrs. Shipman or her husband, either in causing or contributing to the accident which resulted through an instrumentality of the Government for which the Government may properly assume responsibility, it is the view of the War Department that she is equitably entitled to compensation for the death of her husband and the expenses arising out of his injuries and death, and also for the injuries she personally sustained and the resultant medical and hospital expenses. However, the Department believes that an award of \$5,000 for the death of Mr. Shipman and \$6,039 for the personal injuries received by Mrs. Shipman and the expenses incurred by her (\$5,000 for personal injuries; \$766.40 for medical and hospital expenses; and \$272.60 for funeral expenses of Mr. Shipman) would be fair and reasonable compensation.

Attention is invited to the fact that the present language of the bill provides compensation for property damage as well as for the death of Mr. Shipman and the injuries of Mrs. Shipman, and incidental expenses. Since the claim for damage to Mr. Shipman's car has, as hereinbefore shown, already been paid in the amount of \$50, the advisability is suggested of further amending the bill by striking out the words "property damage" at the beginning of line 9.

It is, therefore, recommended that the bill be amended to direct the Secretary of the Treasury to pay to Mrs. Ina Mae Shipman the sum of \$11,039, and that the words "property damage" at the beginning of line 9 be stricken out. If the bill should be so amended the War Department will interpose no objection to its enactment.

The fiscal effect of the bill in its present form would be to pay Mrs Ina Mae Shipman the sum of \$18,766.40, or, if amended as suggested, to pay her the sum of \$11,039.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

AFFIDAVIT OF MRS. CHARLES M. AHART

STATE OF MISSOURI,
County of Polk, ss:

Mrs. Charles M. Ahart, of Polk County, Mo., being duly sworn upon her oath, says that she is the mother of Ina Mae Shipman, the widow of Bernal Rodney Shipman, deceased; that Bernal Rodney Shipman died on the 2d day of December 1941 as a result of a motor vehicle collision with an Army truck which occurred November 30, 1941, on Highway No. 54 in St. Clair County, Mo., and the said Ina Mae Shipman was seriously and permanently injured by the same collision.

Affiant further states that her daughter aforesaid, immediately after the collision and injuries aforesaid, was entered into the Nevada Hospital at Nevada, Mo., where she was confined under the care and treatment of Dr. E. R. King for a period of about 2½ months, then she was transferred to the home of her deceased husband's relatives in Camden County, Mo., where she was continuously confined to bed under the care and treatment of Dr. E. G. Claiborn.

That, on the 15th day of June 1942, she was returned to the home of her parents, on a farm in Polk County, Mo.; that since said last-mentioned date she has been able to be up from bed and, with the aid of crutches, she could move and walk about inside the house. She has gradually improved until she can now walk without the aid of crutches, but she cannot do any work at this date which requires standing. Her right ankle and left knee are crippled and still pain her. She is not well and will always be crippled. She still has to go to bed and rest when her legs become tired and painful after being up from her bed.

Witness my hand this 21st day of January 1943.

Mrs. CHARLES M. AHART.

Subscribed and sworn to before me this the 21st day of January 1943.

[SEAL]

FRANK LIGHTFOOT, *Notary Public*.

My commission expires January 5, 1945.

AFFIDAVIT OF DR. W. F. ZUMBRUN

STATE OF MISSOURI,
County of Polk, ss:

Dr. W. F. Zumbrun, of Bolivar, Mo., being duly sworn upon his oath, says that he examined the physical condition of Ina Mae Shipman on the 7th day of December 1942, and my examination reveals that her right ankle is practically immobile; that there is no adduction or abduction possible of the right foot at the ankle. Extension and flexion of the right foot at the ankle is reduced to about 25 percent of normal. The leg muscles below right knee are considerably atrophied.

The left foot has about 25 percent normal adduction and abduction movement remaining. The left knee flexion is reduced more than 50 percent and extension of left knee is reduced to about 75 percent of normal.

Finger on left hand is stiff and cannot be completely flexed.

Patient complains of pain in both ankles and left knee which is aggravated greatly by walking.

DR. W. F. ZUMBRUN, D. O.

Subscribed and sworn to before me this the 21st day of January 1943.

[SEAL]

FRANK LIGHTFOOT, *Notary Public*.

My commission expires January 5, 1945.